IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.1076 OF 2002
IN
SUMMARY SUIT NO. 256 OF 2002

Maneklal K.Shah & Ors. ..Plaintiffs

Vs.

Acme Engineering Corporation
(Regd.) and Ors. ..Defendants

Mr.Cyrus Ardeshir i/b S.Ashwini Kumar and Co. for the plaintiff

Mr.B.B.Parekh for the defendants

CORAM : S.U.KAMDAR, J
DATED : 3RD OCTOBER, 2005

P.C.:

1. The plaintiff proceeds on the basis of denial to the affidavit in reply.

2. Suit is filed for loan advanced. There is no document or written contract or any negotiable instrument on the basis of which present claim is filed. The learned counsel for the plaintiff contends that there is an admission of liability in Ex.B being the letter of the advocate for the defendant. I have perused the said letter and

reading as a whole I do not find there is any admission of liability. In my view, therefore, suit is not maintainable Under Order 27 Rule 2 of the Civil Procedure Code. In that view of the matter, unconditional leave to defend is granted. The learned counsel for the plaintiff has drawn my attention to the order passed in Notice of Motion NO.2719 of 2002 in Suit No.256 of 2002 for attachment before judgment. In my opinion, suit is not maintainable as summary suit I am of the opinion that the order of attachment before judgment cannot be basis for considering whether leave to defend should be granted or not or that the condition be imposed as contemplated under Order 37 Rule 2 of the Civil Procedure Code. In that view of the matter, Summons for Judgment is dismissed accordingly. Unconditional leave to defend is granted. Suit is transferred to the list of Commercial Causes. Written Statement or points of defence to be filed within four weeks from today. Affidavits, list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes.